In the High Court of Uttaranchal, at Nainital.

Special Appeal No. 85 of 2004.

Dinesh Kumar Verma,
S/o late Jag Mohan Verma,
R/o R.T.S. & Depot, Hempur,
District Udham Singh Nagar
Uttaranchal -- Appellant.

Versus

1- Union of India through Secretary,
Ministry of Defence, New Delhi.

2- The Director, Remount Veterinary Corps.
R.K. Puram, West Block, Army H.Q.
New Delhi.

3- The Commandant, Remount Training
and Depot, Hempur, Tahsil Kashipur,
District U.S. Nagar, Uttaranchal ... Respondents.

Sri K.S. Bhaskar, learned counsel for the petitioner.
Smt. Anjali Bhargava, learned S.C. for respondents.

Coram: Hon'ble P.C. Verma, J.
Hon'ble B.C. Kandpal, J.

Dated: 06-03-2006

By way of this special appeal, the judgment passed by the learned Single Judge dated 28-9-2004 has been challenged.

2- Brief fats of the case are that the petitioner-appellant filed a civil writ petition No. 489/2002 (S/B) before this court on the ground that his father was a confirmed Government servant on the post of Field man (Farm Jamadar) in the Remount Training School and Depot Hempur, District Udham Singh Nagar. The father of the petitioner died in harness on 01-09-1999 due to cardiac arrest. After the death of the father of the petitioner, mother of the petitioner made representation for appointment of elder son of the deceased. The department informed the mother that the elder son cannot be given job as he was already overage and asked the mother of the petitioner to send necessary papers for younger son (the petitioner). After some time the department informed the mother of the petitioner that he younger son also cannot be given the job on compassionate ground under the rules as it was necessary to make the representation within a period of one year.

3- Feeling aggrieved by the action of the department the writ petition was filed before this court on the ground that the mother of the petitioner had already applied for the job for elder son and sent necessary papers thereto, therefore, the claim pertaining to the younger son cannot be said to be time barred.

4- A counter affidavit was filed on behalf of the respondents before the court with the pleading that as per the Government Order only 5% of the vacancies in Group-C and Group-D can be filled on the compassionate ground, provided the application is made within a period of one year of death of Government servant.

5- The learned Single Judge after hearing the learned counsel for the parties and having perused the record was pleased to dismiss the writ petition, vide judgment and order dated 28-9-2004.

6- Feeling aggrieved by the aforesaid judgment and order, this special appeal has been preferred.

7- We have heard the learned counsel for the parties and perused the record.

8- Record shows that the petitioner could not show anywhere that any application has been moved by him or by this mother in regard to provide the job on compassionate ground to the petitioner within a period of one year. From no stretch of imagination the request made by the petitioner's mother for giving job to the elder son, can be said to be an application for providing the job to the petitioner. It is apparent from the record that the mother of the petitioner submitted the certificates pertaining to the petitioner after a period of one year from the date of the death of Jag Mohan Verma, the father of the petitioner.

9- In view of the aforesaid, the respondents cannot be held to be at fault for not providing the job on compassionate ground to the petitioner.

10- We do not find any infirmity in the judgment passed by the learned Single Judge.

11- The special appeal, being devoid of merit, is dismissed.

(B.C. Kandpal, J.) **(P.C. Verma, J.)**

ISB